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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,040	10/03/2005	Uwe Foll	118744-129	6420
29177 7590 07/09/2008 BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690				
EXAMINER KAO, JUTAI				
ART UNIT 2616		PAPER NUMBER		
NOTIFICATION DATE 07/09/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

# Office Action Summary

**Application No.**

10/552,040

**Applicant(s)**

FOLL ET AL.

**Examiner**

JUTAI KAO

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the drawing lacks descriptive texts for labeled elements. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities: unclear due to grammatical usage/wording. The meaning of the claim could be understood, however,

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the wording is unclear. The claim should be rephrased. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 3 recites the limitation "the weighting factor" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Harnesk (US 2006/0008063).

Harnesk discloses a system for providing flexible charging in a network including the following features.

Regarding claim 1, a method for monitoring and control of an IP budget of a subscriber available in a packet-based communication network during online charge assessment of data transmissions (see "charging in a packet switched network...an account of at least one user" recited in the abstract"), comprising: providing a control function in a network node (see serving element 206 within network node 210 in Fig. 2) of the communication network which administers a central IP budget (see token bucket 208) assigned by a charge computer (see control system 201; the assigning step is shown in paragraph [0040], which recites: "The credit account function transmits information of the amount of credit that should be reserved...in one single token bucket"); charging a central IP budget, with a level of the charge being determined on a data stream specific basis (see "Packets are charged differently dependent on which service flow the packets belong to" recited in the abstract), in accordance with assessment charges of the charge computer (see charging policy decision point 202 in Fig. 2; Fig. 3 and paragraph [0043] explains the charge assessment regarding a pre-rating step using a charging policy), for usage of resources of a data transmission of a number of data streams in context which can be assigned to a subscriber (see Fig. 3, which shows having different data flows of different service classes).

Regarding claim 2, wherein a data stream-specific conversion factor or weighting factor is specified on the charge computer side (see tariff plan 303 in Fig. 3 "of the control system" as recited in paragraph [0043]) for determining the level of the charger

by a data stream, after transmission of a data volume in the data stream the transmitted data volume is weighted by the control function with the weighting factor, from this a corresponding proportion of the IP budget is determined and the proportion of the IP budget produced from this is deducted directly from the IP bucket (see "The received calculated charging policy is used to determine the credit amount that should be decremented from the token bucket" as recited in paragraph [0045]).

Regarding claim 3, wherein to determine the weighting factor, the control function accesses a table which comprises data stream-specific assessment charges for data streams which can be assigned to a subscriber (see tariff plan 303, user profile 302 and user rating table 305 in Fig. 3).

Regarding claim 4, wherein a GPRS network is used as the packet-based communication network (see "GPRS" recited in paragraph[0038]).

Regarding claim 5, wherein the control function is located in a GGSN (see "The serving element may reside in ..."a... GGSN" recited in paragraph [0039]).

Regarding claim 6, wherein when a new data stream is added (see "When a user logs on to a communication system..." recited in paragraph [0042]; or see "connection setup such as by PDP Context Activation" recited in paragraph [0094]; wherein the user logging onto the system and the connection setup using PDP contexts is considered having a new data stream), at least one of a new weighting factor, a new table, and an index to or identifier for a table element is transferred by the charge computer to the control function (see "The charging policy comprises a user rating table" as recited in paragraph [0043]; and see Fig. 2, wherein the charging policy decision point 202 of the

charge computer informs the charging policy enforcement unit of the packet forwarding system of the charging policy).

Regarding claim 7, the central IP budget is charged for resource usage by those data streams which belong to one context to which an IP address (see "A service, is the collection of all IP flows to and from a specific destination" recited in paragraph [0057], that is, a destination of the same IP address) of a same subscriber can be assigned (see "the use of a single token bucket per subscriber" as recited in paragraph [0022]).

Regarding claim 8, the method wherein the central IP budget is charged for usage of resources by those data streams which belong to a same context (see "the use of a single token bucket per subscriber" as recited in paragraph [0022]).

Regarding claim 9, wherein on addition of a new data stream added (see "When a user logs on to a communication system..." recited in paragraph [0042]; or see "connection setup such as by PDP Context Activation" recited in paragraph [0094]; wherein the user logging onto the system and the connection setup using PDP contexts is considered having a new data stream) and usage of resources on part of the new data stream the existing IP budget is charged (see "The received calculated charging policy is used to determine the credit amount that should be decremented from the token bucket" as recited in paragraph [0045]; wherein the token bucket is the existing IP budget).

Regarding claim 10, wherein the charge computer allocates to the control function an additional IP budget for administration (see "The credit reservation is made for a plurality of services...and the overall credit reservation is sent to the serving

element and put into the user-specific token bucket" recited in paragraph [0044], wherein the credit is used for administering the use of resources).

Regarding claim 11, wherein the control function, on addition and/or removal of at least one data stream (see "When a user logs on to a communication system..." recited in paragraph [0042]; or see "connection setup such as by PDP Context Activation" recited in paragraph [0094]; wherein the user logging onto the system and the connection setup using PDP contexts is considered having a new data stream), transfers a remaining IP budget to the charge computer and the charge computer assigns the control function a new IP budget (see "The credit reservation is made for a plurality of service...and the overall credit reservation is sent to the serving element and put into the user-specific token bucket"; wherein the credit reservation is transmitted from the serving node to the control system, informing of the status of the token bucket, that is, the need of tokens; the control system then provide the serving node of tokens; also see "When a token bucket is empty or a predefined threshold is reached, the usage is confirmed toward the control system and a new resource reservation is done..." recited in paragraph [0046]).

Regarding claim 12, wherein the control function informs the charge computer (see "the serving element...initiates a reservation signaling sequence towards the credit account function of the control system" recited in paragraph [0044]) about the addition and/or removal of a data stream (see "When a user logs on to a communication system..." recited in paragraph [0042]; or see "connection setup such as by PDP Context Activation" recited in paragraph [0094]; wherein the user logging onto the



system and the connection setup using PDP contexts is considered having a new data stream) and the charge computer gives the control function specification about another use of the IP budget (see "The received calculated charging policy..." recited in paragraph [0045]).

Regarding claim 13, wherein the charge computer informs the control function (see Fig. 2, wherein the charging policy decision point 202 of the charge computer informs the charging policy enforcement unit of the packet forwarding system of the charging policy) by means of a table or a pointer to a position in a table about the weighting factor (see "The charging policy comprises a user rating table" as recited in paragraph [0043]) with which a transmitted data volume in a data stream is to be newly weighted in the event of a parameter change (see "When the validity conditions no longer are valid, a signalling sequence is initiated to get a new up-dated charging policy" recited in paragraph [0046]).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUTAI KAO whose telephone number is (571)272-9719. The examiner can normally be reached on Monday ~Friday 7:30 AM ~5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on (571)272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ju-Tai Kao

/Kwang B. Yao/  
Supervisory Patent Examiner, Art Unit 2616